



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

MD

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/848,915	05/04/2001	Jennifer L. Hillman	PF-0247-2 CON	7120
27904	7590	02/23/2004	EXAMINER	
INCYTE CORPORATION				HUFF, SHEELA JITENDRA
3160 PORTER DRIVE				
PALO ALTO, CA 94304				
ART UNIT		PAPER NUMBER		
		1642		

DATE MAILED: 02/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE

U.S. Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
---------------------------------	-------------	---	---------------------

EXAMINER

ART UNIT PAPER

022004

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The reply brief filed 2/5/04 has been entered and considered. The application has been forwarded to the Board of Patent Appeals and Interferences for decision on the appeal.

Any inquiry concerning this communication should be directed to Sheela J Huff at telephone number 571-272-0834.

Sheela J Huff
Sheela J Huff
Primary Examiner
Art Unit: 1642



Docket No.: PF-0247-2 CON

Response Under 37 C.F.R. 1.116 - Expedited Procedure
Examining Group 1642

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Mail Stop Appeal Briefs-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on February 3, 2004.

By: Lisa McDill Printed: Lisa McDill

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of: Hillman et al.

Title: TUMORIGENESIS PROTEIN

Serial No.: 09/848,915

Filing Date: May 4, 2001

Examiner: Huff, S.

Group Art Unit: 1642

Mail Stop Appeal Briefs-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF ON APPEAL

Sir:

This is Appellants' Reply Brief On Appeal (submitted in triplicate) in response to the Examiner's Answer dated December 3, 2003 ("the Examiner's Answer") in the above-identified application.

In the Examiner's Answer the Patent Examiner:

(1) maintained the rejection of Claims 1 and 15 under 35 U.S.C. § 112, first paragraph for alleged lack of written description of the claimed polypeptide variants and fragments.

(1) maintained the rejection of Claims 1, 2, 15, and 16 under 35 U.S.C. § 101 on the grounds that the claimed polypeptide allegedly does not possess a specific and substantial asserted utility or a well established utility; and

(2) maintained the rejection of Claims 1, 2, 15, and 16 under 35 U.S.C. § 112, first paragraph for alleged lack of enablement because of the invention's alleged lack of utility.

Issue One: WRITTEN DESCRIPTION REJECTION OF CLAIMS 1 and 15

I. Comments on the Rejection

The Examiner's Answer states that "Claim 1 is broadly drawn to 'a naturally-occurring amino acid sequence having at least 90% sequence identity to the sequence of SEQ ID NO:1'"
Doc No.118454